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The Great Transformation? Wetlands and Land Use in Manitoba During the Late Nineteenth Century

SHANNON STUNDEN BOWER

The marshlands that once sprawled over the prairie from the Illinois to the Athabasca are shrinking northward. Man cannot live by marsh alone, therefore he must needs live marshless. Progress cannot abide that farmland and marshland, wild and tame, exist in mutual toleration and harmony.¹

Aldo Leopold's reaction to Clandeboye Bay, part of the marsh that stretches along the southern shore of Lake Manitoba, must be among the most widely-read passages on the topic of North American wetlands. Leopold was a major figure in the American conservation movement, and his life and work still attract attention from environmental historians. He is most renowned for the concept of a land ethic: a way of life which would bring wild and tame into harmony.

As Leopold gazed out over the bay, he also saw the future: "dyked and pumped," the marsh "will lie forgotten under the wheat, just as today and yesterday will lie forgotten under the years." While Clandeboye Bay and some other parts of Delta Marsh have survived, many of the other wetlands that once characterized the landscape of southern Manitoba have been drained for agriculture. This essay considers the historical significance of this forgotten wetland landscape.

The story of Manitoba's wetlands does not begin or end with drainage. From the activities of those who resettled the Red River region, through the political changes associated with the creation of the Province of Manitoba, to the social consequences of residents' efforts to adapt to new realities, it is clear that wet areas have figured in profound social and political transformations. Both imported notions and local strategies influenced the development of new ways of understanding the landscape and contributed to dramatic alterations in land use. Yet, as we will see, there was also continuity in the relation between people and place.

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1 Aldo Leopold, *A Sand County Almanac* (New York: Oxford University Press, 1966), 162.

Haymaking on the open prairie

The Red River settlement was established early in the nineteenth century at the forks of the Red and Assiniboine Rivers. Newcomers survived early difficulties, adapted to their surroundings, and developed practises and institutions attuned to the challenges of life in the region.² A community beset early on by starvation and scarcity learned, largely through the instruction and example of aboriginal people and other fur trade participants, that exploiting the wild resources of the open prairie would help ensure a sufficient supply of food and materials.³ Hunting and fishing were important, but the management of wild hay became especially significant for the Red River community.

On 28 July 1860, the *Nor'wester*, a recently-established weekly newspaper, announced that "the season for making hay has fairly commenced." The short article went on to review how the hay harvest was governed:

The law forbids hay-cutting on the common before the 20th July, but on and after that day the public hay-field is open to all. The lands surveyed and sold by the Hudson's Bay Company are in narrow strips fronting the river and running back a depth of two miles. On these lots, which are the bona-fide property of the occupants, the owners may, of course, begin at any time. Besides these two miles, however, other two are allowed as privileged hay-ground. Beyond the four miles is what is called the common. Our farmers did not, except in a very few cases, proceed with hay-making on the 20th, there being so much water on the ground ... On the whole, farmers say that the harvesting will be satisfactory, if the weather continue, as at present, dry and "sunshiny."⁴

The article made clear that haymaking in the settlement depended on two factors: property arrangements and environmental conditions.

For contemporary readers, these factors require further explanation. Lots extending back from the banks of the Red and Assiniboine Rivers were "bona-fide property." In these, owners could "of course" do as they pleased. On the "other two" miles, stretching back from the river lots to a total distance of four miles, matters were a little more tricky. The owners of the river lots had special claim to the hay that grew in this area. In 1872, Gilbert McMicken, Agent of Dominion Lands, asserted that this right was "definitive and formally granted." He explained that by an act of the Council of Assiniboia, the gov-

2 H. Robert Baker, "Creating Order in the Wilderness: Transplanting the English Law to Rupert's Land, 1835-51," *Law and History Review* 17, no. 2 (Summer 1999). <<http://www.historycooperative.org/journals/lhr/17.2/baker.html>> (9 May 2005).

3 Barry Kaye, "'The Settlers' Grand Difficulty': Haying in the Economy of the Red River Settlement," *Prairie Forum* 9, no. 1 (1984): 1.

4 "Haymaking and Harvesting," *Nor'wester*, 28 July 1860.

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erning body responsible for many aspects of local administration, "each settler was allowed the privilege of cutting hay within what was known as the 'two mile privilege' for a period of two weeks in each year."⁵ Though settlers had no claim to the land itself, their right to the hay kept others off. Still, bona-fide ownership and privileged access were not collapsed into each other. For the Nor'wester at least, there was a significant distinction.

McMicken's letter to his superior in the Department of the Interior is but one example of efforts by outsiders to make sense of Red River's complicated property arrangements. Not even historians have fully appreciated the nuances of such matters. In her innovative work on property relations in the northwest, Irene Spry traced a temporal "transition in Western Canada from common property resources, to open access resources, and finally to private property." Her rendering makes clear how this great transformation "contributed to the economic degradation of the original people of the plains and to a new inequality in the economic and social system."⁶ More recently, Terence O'Riordan has described how the Hudson's Bay Company in the Edmonton area successfully negotiated the great transformation. He argues that a deliberate and early shift away from reliance on the commons allowed the company to find opportunity where so many others found tragedy.⁷

Both Spry and O'Riordan recount important stories in persuasive ways. However, in a region as environmentally and culturally varied as the nineteenth century northwest, it is hardly surprising that there are other stories to be told. Closer attention to particular moments in the history of the Red River settlement such as that captured in the *Nor'wester* brings to light the relatively stable coexistence of property regimes that Spry and O'Riordan portray as more or less incompatible. For many years, in the community of Red River, different ways of managing land complemented each other. The private property of the river lot, the privileged access of the outer two miles, and the commons on the open prairie coexisted because they made sense in relation to the local environment.

River lots were situated along the banks of the Red and Assiniboine Rivers. On the rivers' natural levees, houses were built and gardens planted.⁸ While

5 Library and Archives Canada (hereafter LAC), Records of the Department of the Interior, RG 15, D-II-I, vol. 227, file 635, reel T-12176, G. McMicken, Agent of Dominion Lands, to J.C. Aikins, Secretary of State, 1872.

6 Irene Spry, "The Great Transformation: The Disappearance of the Commons in Western Canada," in *Man and Nature on the Prairies*, ed. Richard Allen (Regina: University of Regina, 1976), 21-45.

7 Terence O'Riordan, "Straddling the 'Great Transformation': The Hudson's Bay Company in Edmonton during the Transition from the Commons to Private Property, 1854-1882," *Prairie Forum* 28, no. 1 (Spring 2003): 1-26.

8 H. Alfred Hochbaum, "Contemporary Drainage Within True Prairie of the Glacial Lake Agassiz Basin," in *Life, Land, and Water*, ed. William J. Mayer-Oakes (Winnipeg: University of Manitoba Press, 1967), 198.

these well-drained locations were part of what made river lots valuable, wet areas were the primary reason that both the outer two miles and certain areas of the open prairie were particularly important.⁹ As Surveyor General Lindsay Russell explained in 1871, wetlands were almost as valuable as dry land because “they give without the least trouble of cultivation, extremely rich hay meadow.”¹⁰ *Scholochloa festucacea*, commonly known as whitetop or marsh grass, grew abundantly in wet areas.¹¹ This was what haymakers sought.

Wet areas were valuable, but they were not entirely dependable. Though some areas became known for their consistently abundant crops of hay, the amount of surface water and its location varied from year to year. Haymakers would have to consider various locations, weighing conditions in each. Also, while a wet area might catch the eye of a haymaker, it was not until the area dried that it would be harvested. In 1860, according to the *Nor'wester*, the haymakers of the Red River settlement were waiting for the dry and fair weather that made for an easy harvest. Effective haymaking required careful observation and strategic adjustment. Vigilance could result in a store of hay sufficient to last through the winter. In the settlement, river lot owners who participated in haying on the open prairie had both the stability of private property and the flexibility to adjust their use of the common to current environmental conditions.

Historical geographer Barry Kaye coined the phrase ‘haying economy’ to refer to the practises that integrated the wild grasses of the prairie into local life-ways. By emphasizing the widespread hardship that attended years in which environmental conditions were not conducive to the growth of sufficient hay, Kaye made clear the economic significance of the hay resource to all those in the region.¹² Haymaking brought people together, as they negotiated how best to arrange, as far as possible, for mutual satisfaction of similar needs. All participants were obliged to cultivate relationships as they reaped the benefits of the unworked fields.

One of the most vivid illustrations of the social significance of the haying economy is the remarkable journal of Red River settler Samuel Taylor. His entries often include mention of activities such as cutting hay with James Irwin or borrowing William Pruden’s oxen to haul it home. As willing as neighbours were to lend a hand, so were they prepared to lend a load. Hay cut on the open prairie was not always hauled home immediately. Stacks were often left in the

9 See attached map. Because of the variation in size and shape of wet areas, the locations indicated as “major haying areas” are representational, not definitive illustrations of land conditions throughout the period in question.

10 LAC, RG 15, D-II-I, vol. 228, file 804, reel T-121177. Report on Topographic Surveys of 1871 by Lindsay Russell, 1872.

11 Heinjo Lahring, *Water and Wetland Plants of the Prairie Provinces* (Regina: University of Regina Press, 2003), 104.

12 Barry Kaye, “‘The Settlers’ Grand Difficulty’: Haying in the Economy of the Red River Settlement,” 1.

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swamps, to be drawn on as necessary throughout the winter. This meant that even a settler with an ample supply in the field could be short on the farm. Life was easier if it was possible to bridge such shortfalls by calling on a neighbour. As the years passed, Taylor's oldest son, William, assumed responsibility for more of the labour associated with haymaking. Like his father, William both gave and received assistance. Through all of this, as Taylor's diary makes clear, settlers were not just securing necessary resources but also nurturing a community.¹³

The start of haying was an annual community event. High spirits prevailed as entire families established camps near the best hayswamps, in preparation for the first cut of the year. Desirable locations were identified in advance, and all would be anxious to make their claims by the accepted method of cutting a swath around the chosen area. Dry seasons clearly illustrated that haying involved competition as well as cooperation. In these years, when even the swamps produced little, folks set out at the stroke of midnight to cut their swaths, sometimes even ignoring thunder raging overhead.¹⁴ The operation in tandem of the regulated beginning of hay cutting – established by the Council of Assiniboia – and the accepted method of claiming an area – a community convention apparently never codified by the Council – suggests that, in the field, the distinction between legal and moral obligation was of little relevance.

Some defied the Council's regulations and cut in advance. Their actions became the talk of the settlement, which suggests that defiance did matter.¹⁵ However, taken in sum, the evidence indicates that adhering to the arrangements – whether formal laws or community conventions – was less important than behaving in a manner that the community found appropriate. Though an area marked off by a swath was identified as the property of an individual, anyone who "tried to circle the whole prairie for himself" was at risk of having the claim disregarded.¹⁶ Ambition was tempered by the fact that inordinately large claims would not necessarily be respected. Both Council regulations and community conventions mattered, but only insofar as they bore on the ongoing configuration of a rough community consensus on what constituted appropriate behaviour. The haying economy operated as a moral economy in which nearly everyone was invested.¹⁷

The community consensus was always evolving because it was defined in relation to environmental conditions. In wetter years in which *scholochloa*

13 Archives of Manitoba (hereafter AM), Samuel Taylor Journal, MG 2 C13.

14 R. G. Macbeth, *The Selkirk Settlers in Real Life* (Toronto: Williams Briggs, 1897), 45-7.

15 AM, MG 2 C13, 1 August 1865.

16 Macbeth, *The Selkirk Settlers in Real Life*, 46.

17 O'Riordan draws on the concept of the moral economy in his article. For a particularly successful use of the concept by a Canadian historian, see Sean Cadigan, "Moral Economy of the Commons: Ecology and Equity in the Newfoundland Cod Fishery, 1815-1855," *Labour/Le Travail* 43 (Spring 1999): 9-42.

festucacea was more abundant, larger cuts were tolerated. In years when the land dried more quickly, haying dates were disregarded. In July 1864, Samuel Taylor noted in his journal that “some people went down to Nettly Creek to cut hay on the 20th although it was settled there should be no hay cut on [until] the 27th. W. Taylor and T. Moar did the same ... O! What fine hay weather it is now.”¹⁸ Settlers were aware of the date set by Council and recognized that early haying constituted a violation. Yet Taylor was remarkably matter-of-fact about his son William’s actions. Illegal haymaking was neither a source of shame nor a mark of courage: it simply made sense. It seemed less important to obey regulations than to capitalize on “fine hay weather.” As suggested by the example of an ambitious haymaker who might mark off an inappropriately large area, the community could enforce its own judgements by exacting penalties.¹⁹ Yet Taylor expressed no fear that his son’s actions would bring reprisals. His journal entries reflected his confidence that the community consensus, derived partly from assessments of environmental conditions, would trump the formal regulations governing haycutting.

Through his journal, Samuel Taylor reminds us of the significance of environmental conditions in determining what constituted a legitimate property claim on the open prairie. While haymaking was governed by law and custom, both would be set aside in favour of practices more attuned to prevailing conditions. Ultimately, the moral economy in operation on the commons helped settlers to secure the hay that was so important to their survival on their privately-held river lots. People lived with complex notions of property and contributed to a community capable of determining how these should be applied in particular instances. Competition and cooperation both figured in this process. And both contributed to the development of a community remarkable for its resilience and resourcefulness. The haying economy of the open prairie had social consequences.

The Council of Assiniboia

Samuel Taylor’s journal suggests that, even as laws governing haying were recognized, obedience was far from automatic. Why, then, was there so much tumult in 1862, when the Council of Assiniboia moved the start of haying from 20 July to 1 August? The *Nor’wester* gave the matter a fair amount of cover-

18 AM, MG 2 C13, July 1864.

19 There is record of only one court case relating specifically to hay cutting. Even within the formality of the courtroom, the judgement was tempered because of an unspecified set of “circumstances.” The involvement of the court did little to disrupt the arrangements that governed haymaking. Indeed, insofar as a judgement was rendered that seems to have been as contingent as those of the community, it may have bolstered the legitimacy of informal means of regulation. AM, District of Assiniboia Court Records, MG2 B4, reel M-389. *Hudson’s Bay Company v. James Cook et al*, 19 August 1847.

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age, using the change – presented as an unfathomable decision taken in secrecy – as an opportunity to protest the exclusion of the press and the public from Council meetings.²⁰ But the newspaper also made clear that the alteration could be a source of significant difficulty, because delayed hay cutting was more likely to conflict with the crop harvest. As it described the settlement's reaction, the change produced much controversy:

The wisdom of the change is the question in dispute. Some uphold it, more clamor for its repeal. Some will abide by the Council's decision, others will not. This is the 23rd of July, and, to our certain knowledge, many are already out on our fine grassy meads, despite the law.²¹

Anxious to make its view perfectly clear, the newspaper went on:

Though opposed to the alteration that the Council made we also object to breaking the Council enactment, so long as it stands. This is a bad principle – one that cannot be tolerated unless we are all to do as we please, and dispense with government altogether.

The *Nor'wester* associated the flouting of the enactment with general disorder. But Samuel Taylor's journal makes clear that the laws and customs governing the haying economy could bend without breaking. The date change did not precipitate defiance, but drew new attention to routine practice. The events of 1862 obliged officials to acknowledge that there was a discrepancy between Council and community understandings of what constituted appropriate behaviour. And that the community consensus – a moral economy – carried the day.

The Council of Assiniboia dealt with the situation by opening the common on 23 July. It also decided that, in future years, the date should be set annually, in response to environmental conditions.²² All of this may have gone some distance toward appeasing the *Nor'wester*, which had published shrill predictions that defiance would undermine "the British system of government,"²³ but it was also a vindication for Samuel Taylor and all who thought environmental conditions should govern hay cutting. By immediately opening the common and by deciding to adjust the haying date every year, the Council chose to attune legislative procedure more closely with routine practice in Red River. The settlers responded to the environment; the Council responded to the settlers. In this way, the wetlands of the Red River region affected the government of the settlement. What the *Nor'wester* feared might signal the downfall of the

20 "The Hay Law," *Nor'wester*, 14 May 1862.

21 "The Hay Law Put to the Test," *Nor'wester*, 23 July 1862.

22 "Hay-Time," *Nor'wester*, 22 July 1863.

23 "The Hay Law Put to the Test," *Nor'wester*, 23 July 1862.

British system might also be seen as the installation of a regulatory process more appropriate to the local context.

In the years to come, the date on which haying commenced was altered several times. The Council of Assiniboia had adapted its process, introducing sufficient administrative latitude to accommodate changing environmental conditions. Some councillors and settlers argued that this was inefficient, protesting the need to revisit the matter every year. Yet even in voicing their objections, they were participating in a community dialogue on the character of appropriate environmental regulation. In addition to the content – the day on which haying was to begin – the form of environmental regulations – whether they should be absolute or relative to environmental conditions – had become a subject of debate. After 1862, the Council participated in a legislative process much more akin to how the community had always managed the hay resource. Although these more flexible regulations were only one element of the community consensus that bore on haymaking, the Council had gone some distance toward reconciling government practice and local context.

The establishment of the Province of Manitoba

The Province of Manitoba was created by the *Manitoba Act* of 1870.²⁴ Although it provided that the Crown lands and other natural resources of the new province would be administered by the Dominion government, this Act of the Canadian Parliament included some acknowledgement of local land use practices. However, it took agitation by the community of Red River to oblige the incoming authorities to act on their commitments.²⁵ Anthropologist James Scott has documented an association between the establishment of an administrative bureaucracy and the simplification of sophisticated environmental management practices.²⁶ In his rendering, it is the state that sifts out the detail, in order to make possible administration from afar. In Red River, residents undertook such simplification for themselves. Through a community effort, they sought to characterize local land use practices in a manner consistent with Dominion notions of land ownership.

24 For information on and documents relating to the Manitoba Act, see William Morton, ed., *Manitoba: The Birth of a Province*. (Altona: D. W. Friesen & Sons Ltd., 1965).

25 The extent to which the Dominion lived up to its commitments is one aspect of a contentious historical debate over the factors that led so many Red River Métis to abandon Red River Settlement during the late nineteenth century. Historians Thomas Flanagan, Douglas Sprague, and Gerhard Ens have been key participants. Clearly, this is an important matter. As I focus on the social and political effects of local environmental conditions, my concern is with those who remained near Red River Settlement.

26 James Scott, *Seeing Like a State: Why Certain Schemes to Improve the Human Condition Have Failed*. (New Haven: Yale University Press, 1998).

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Long accustomed to adapting to environmental variability, residents were quick to address the changing political context. They recognized the need to buttress their land claims and organized meetings to address the issue. These brought together representatives from the parishes, the local administrative unit of the settlement (see map). To a significant extent, parish boundaries corresponded to cultural and linguistic boundaries. In describing the hay privilege at a meeting on land matters, the President of the Council of Assiniboia found it useful to emphasize a distinction between the land use practices of “the French” and “the English.” The French, it seems, were more inclined to use the outer two miles as a pasture or woodlot, while the English were more likely to cut hay.²⁷

There is evidence, however, that land use practises may not have split quite so neatly along cultural lines. In responding to the president, parish representatives did not pick up the distinction between the French and the English. They preferred simply to describe conditions in the specific areas they represented. Indeed, their descriptions related more to the geography of the parish than the culture of the parishioners. Because of the twists and turns of the local waterways, some river lots lacked corresponding hay privileges (see map). Also, the variable quality of the region’s soils meant that not all hay privileges were equally productive. Clearly, land use was not consistent throughout the Red River settlement, and environment as well as culture affected individuals’ choices.

To judge from transcripts published in local newspapers, meetings on land matters were lively and intense. Toward the end of a particularly volatile meeting, the president of the Council of Assiniboia asserted that, in relation to land matters, “[T]he whole settlement is united – and we are glad to be united; but at the same time our circumstances are not the same all over.”²⁸ This was an astute observation, both as it described the Council’s debate and as it captured something of Red River’s nature as a community sustained through a rough equipoise between factors of convergence and divergence. Many river lot owners relied on the hay privilege in some way, but all recognized that usage varied. The tension between what was common to all and what was specific to some is part of what kept civil society vital and agile. The president suggested that, with regard to the hay privilege, each parish should prepare a petition detailing local demands and requesting government assurance that these would be respected.

A significant number of parishes joined in the coordinated effort to petition the government. Some submissions, such as those prepared by St. Charles and Headingly, were relatively brief, urging the government to “adjust the two mile

27 *The New Nation*, 6 May 1870.

28 *Ibid.*

hay privilege and the right of common.”²⁹ In French, the refrain was no less persistent, with petitioners from St. Norbert and St. François-Xavier Est seeking recognition of “un droit indéniable à ce privilège de foin et à ces communes.”³⁰ Despite nuances of phrasing and argument, these submissions amounted to different justifications for a similar claim to the outer two miles. Local leaders described as “a perfect success” the passage by many parishes of “the same resolutions or resolutions to the same effect.”³¹ The community of Red River, working together despite the cultural and environmental factors that divided the parishes, was deliberately orchestrating its interaction with the Dominion government.

How land use was presented in the petitions had as much to do with new political developments as with established practices. This is apparent in the submission from the Parish of Kildonan. Like the other submissions, it demanded attention to the “rights of common and of cutting hay.” It then went further, making clear that definitive title to the outer two miles was the objective.³² The commons in question was not the open prairie that was so important to Samuel Taylor and his neighbours, but the commons that had developed in hay privilege lands used for grazing rather than haying.

Though the president of the Council of Assiniboia argued that use of the hay privilege differed between the French and the English, by the early 1870s it seems that using the outer two miles as pasture was becoming increasingly widespread among all parishes. As Dominion Lands Agent McMicken explained:

These [hay privilege] rights as now exercised are quite different in character to those granted. From subsidence of the streams of water; climatic effects or other causes many parts of the country that formerly were of a marshy character are now quite dry ... So it has been in very many instances in the case of the lands on which the hay privilege was granted. The settlers now generally go many miles off to cut their supply of Hay, selecting localities that yet partake of a marshy character and therefore yielding in abundance this article so necessary to them.³³

29 AM, Alexander Morris Fonds, MG 12 B1, item 55, Minutes of a meeting held in St. Charles, 11 January 1873; item 47, Minutes of a meeting held at Headingly, 7 January 1873.

30 AM, Alexander Morris Collection, MG 12 B1, item 59, Minutes of a meeting held in St. Norbert, 13 January 1873; item 57, Minutes of a meeting held in St. François-Xavier Est, 12 January 1873.

31 AM, John C. Schultz Fonds, MG 12 E1, item 7153, Letter from John Gunn to John Schultz, 28 December 1872.

32 AM, Alexander Morris Collection, MG 12 B1, item 1978, Petition submitted to Alexander Morris by the Parish of Kildonan, n.d.

33 LAC, RG 15, vol. 227, file 635, reel T-12176, G. McMicken to J.C. Aikins, 1872.

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Because environmental changes had diminished the hay crop, river lot owners had found other uses for their hay privilege. Given that residents were accustomed to adjusting land use on the common according to environmental conditions, it may well have seemed only natural to do the same on the hay privilege.

A series of dry years is not, however, an adequate explanation for how the petitioners described the land they sought. Invoking “the hay privilege and the right of common” in claiming the outer two miles was a political strategy. By phrasing their demands in this way, petitioners ensured that differences in how the area was used would not weaken a claim that derived its strength from its collective character. The petitions that employed this phrase were a product of a community capacity for cooperative action, one that was evidently able to span cultural cleavages as well as adjust to environmental conditions.

The right to cut hay on the open prairie, so important to Samuel Taylor and his neighbours, went unaddressed in the Kildonan submission. A March 1874 letter from Alexander Morris, Manitoba’s new Lieutenant Governor, to the Minister of the Interior explained that matters on the open prairie were quite different from those in the hay privilege, and asserted that settlers were not pressing claims to the open prairie.³⁴ Although a few did seek the right to cut hay on the open prairie,³⁵ the hay privilege became a rallying point in a way that the open prairie did not. Morris’ description of the matter was consistent with the arguments put forth by the parish petitions: the hay privilege was equivalent to land ownership.

Notably, the right to cut hay on the open prairie may have been increasing in importance even as settlers chose not to fight for it. In light of the drying trend reported by Dominion Lands Agent McMicken, residents were by this time much more likely to be dependent on the open prairie for their supply of hay. In the first section of this paper, we saw how Red River residents adapted their land use practices to environmental conditions. In the second, we saw how the Council of Assiniboia modified its regulations to reflect the haying practices of residents. In this section, we saw how Red River residents portrayed their practices in a manner calculated to appeal to new authorities. The existence of a drying trend that increased the importance of the haylands of the open prairie reinforces the strategic nature of the petitioners’ actions. They asked for what they were likely to get, rather than for what they actually used.

For Irene Spry, the elimination of the commons was an ecological and cultural tragedy that played out across the northwest. Terence O’Riordan

34 AM, Alexander Morris Fonds, MG 12 B2, item 105, Letter to Minister of the Interior from Alexander Morris, 18 March 1874.

35 AM, Alexander Morris Fonds, MG 12 B1, item 1042, Petition submitted to Alexander Morris from the Parish of St. James, 13 July 1873; item 59, Minutes of a meeting held at St. Norbert, 13 January 1873.

described how the Hudson's Bay Company took advantage of opportunities in the Edmonton area as private property came to predominate. In the Red River settlement, the history of the commons included the strategies through which residents worked together to respond to changing political conditions. This was facilitated by how the haying economy – a moral economy – had created a capacity for strategic cooperation at the community level.

By the late nineteenth century, the environmental conditions that had enabled the outer two miles to produce such abundant hay crops had changed. For residents compelled to assert land claims, the formal regulations that had become environmentally obsolete became politically invaluable. To appeal for recognition of "the hay privilege and the right of common" was to derive from complex and changing property arrangements a clear and persuasive justification for local land ownership. Such a process of simplification was the strategy of the Red River community.

The Harrowers' park lot, the swamp, and Jemima Bunn's hay privilege

Use of the hay privilege as pasture had become widespread in some parts of the Red River settlement. In other places, it had become common to use the outer two miles for agricultural settlement. A growing population necessitated more food and more houses and, after a series of dry years, some parts of the outer two miles seemed suitable for these purposes. As a result, a number of park lots – fenced areas that were usually cultivated – were established in the hay privilege lands. The phenomenon of the park lots confirms that both the hay privilege lands and the open prairie were managed through interpersonal negotiations that turned on environmental conditions. Examination of an instance of conflict resulting from overlap between a park lot and a hay privilege reveals how efforts by Red River residents to assert their claim to the hay privilege altered the social context in which land matters were arranged.

For those looking to establish park lots, the better-drained lands in the outer two miles of the parishes north of the Assiniboine along the Red River were especially appealing. St. Paul was one such parish. In 1863 or 1864, Celestin Thomas established a park lot in the outer two miles of St. Paul. In 1871, he sold it to John and James Harrower, immigrants from Britain who had spent a number of years in Ontario before coming to Manitoba. Over subsequent years, the Harrowers put a lot of work into improving their park lot: a substantial house and other structures were built; a garden and agricultural fields were established. Understandably, they were keen to ensure that their investment of time and effort was protected.

For many who were concerned with securing land claims during this turbulent period, Dominion control of Manitoba Crown lands became a source of confusion and delay. Administration by Ottawa may have hindered residents – both those who acted individually like the Harrowers and those who acted

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collectively through the parish structure or other organizations – in their efforts to participate in the resolution of outstanding disputes. Frequently, concerned residents addressed their complaints to Lieutenant Governor Alexander Morris. As the senior governing official in Manitoba, it was Morris who received the petitions that had been so carefully crafted by the Red River parishes. In this and other instances, he was obliged to act as an intermediary between local residents and Dominion authorities. As part of his response to the petitions, Morris urged his colleagues in Ottawa to act on residents' concerns.

After establishing through a preliminary inquiry that "the rights of Hay and Common" were legitimate,³⁶ the Dominion commissioned John Bain and Joseph Dubuc, both barristers residing near Winnipeg, to "investigate each individual claim which may be made ... for the commutation either of the Right of Common or Right of cutting Hay."³⁷ In the winter of 1873-4, Bain and Dubuc began by inviting settlers in the Parishes of St. Paul and St. Charles to present their claims at public hearings.³⁸ The task of sorting out individual claims in these two parishes alone overwhelmed the commission. It was decided that the only feasible way of proceeding was to propose general principles according to which most claims could be resolved.³⁹ Lieutenant Governor Morris concurred, and proposed that the outer two miles should be offered to river lot owners. This was, to his mind, a good general principle.

But Morris recognized that application of this general principle would not resolve all disputes. He foresaw that park lots would be particularly troublesome. Many were in direct conflict with the hay privilege.⁴⁰ In March 1874, Morris recommended that the conflicts should be addressed on a case-by-case basis.⁴¹ Two months later, Dominion Land Surveyor J.W. Harris began work in the outer two miles of the parish of St. Paul. His tasks included the measurement of individuals' holdings and the resolution of outstanding disputes.⁴² Understanding that not all residents would welcome such interference, Harris proceeded with care. Like other surveyors in similar positions, he sought to curry positive relationships as a means of easing his task. He seems to have got

36 Canada, Report of a Committee of the Honourable the Privy Council, 13 January 1873.

37 Canada, Report by the Minister of the Interior (A. Campbell), 2 September 1873. Appended to a Report of a Committee of the Honourable the Privy Council, 6 September 1873.

38 AM, Hay Privilege Commission, GR 1646, G 1032, Public Notices for receiving and hearing claims for commutation of the Hay Privilege and Rights of Common for the Parishes of St. Paul's (December 1873) and St. Charles (January 1874).

39 Canada, Report of a Committee of the Honourable the Privy Council, 17 April 1874.

40 Barry Kaye, "Some Aspects of the Historical Geography of the Red River Settlement from 1812 to 1870," (M.A. thesis, University of Manitoba, 1967).

41 AM, Alexander Morris Fonds (Ketcheson Collection, Letterbook H), MG 12 B2, item 105, Letter to Minister of the Interior from Alexander Morris, 18 March 1874.

42 AM, Surveyors' Notebooks, GR 1601, Notebook 687, Surveyor J. W. Harris.

along well with the Harrowers, as there is evidence that he camped in their yard and dined at their table on several occasions.⁴³

Personal relationships do not seem to have swayed Harris' professional judgement. In 1874, Harris gave the Harrowers a document that was probably an early draft of his report to the dominion government. The Harrowers immediately fired off a letter to the government:

... A surveyor has been running lines and posting up stakes and [we] have been unofically informed that the amt of land awarded to us lies within the aforesaid lines. We cannot believe that the Gov intend to do us so foul A Rong nor yet be guilty of so arbitrary an act ...⁴⁴

The Harrowers would later clarify what they objected to so strongly. Harris had given them a little over 170 acres. They objected "because it give us less than we should have ... (and) because the arrangement of the surveyor puts us into the swamp."⁴⁵

Harris' survey notebook provides no evidence that he considered the significance of a swamp close to the Harrowers' claim. There is abundant evidence that Harris was extremely careful in his work and his diligence may be the explanation.⁴⁶ As far as possible, even when dealing with settled areas, surveyors were to impose a grid on the land. An existing body of water was noteworthy, but adjusting property lines to accommodate the sort of intermittent wetlands that covered much of southern Manitoba does not seem to have been common practice. No amount of social courtesy could blunt the sharp divide between what was significant to residents and what was recorded by surveyors. The survey did not accommodate the environmental logic that had long conditioned life in the settlement.

The Harrower brothers were incensed at Harris' report. They felt that altering their lot in the proposed manner was hardly the "encouragement which as emigrants we have a right to expect at the Hands of the Government."⁴⁷ While it was the surveyor's recommendation that their holdings be repositioned and reduced that caused the brothers to protest, their correspondence with the government also brought to light their conflict with Jemima Bunn. In the late 1870s, Bunn began vigorously asserting her claim to the entire two miles behind the river lot that she occupied. Her hay privilege and the Harrowers' park lot overlapped.

43 AM, MG 14 C74 John Walter Harris Fonds.

44 LAC, RG 15, vol. 143, file 428. Letter from James and John Harrower to David Mills. 14 December 1876.

45 LAC, RG 15, vol. 143, file 428. Undated transcript.

46 Diligence is evident not only in Harris' professional diaries but also in the personal log he kept. AM, MG 14 C74 John Walter Harris Fonds.

47 LAC, RG 15, vol. 143, file 428. Letter from James and John Harrower to David Laird, 2 May 1874.

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Though relative newcomers, John and James Harrower readily adapted to the practice of arranging landholding according to community consensus and environmental condition. When they arrived in the early 1870s, no doubt these practices seemed both appropriate and entrenched. There was no need for the Harrowers to come to terms with the potential consequences of taking up on the hay privilege, as the area in question was not used for haying and was suitable for other purposes. In reply to a question regarding the overlap between their lot and the hay privilege, they voiced their frustration at the manner in which matters seemed likely to be resolved: "We get nothing instead of what is taken away and the part we do not get is proposed to be given in reconsideration of the hay privilege."⁴⁸ Pressed further as to whether they had ever been in conflict with the holders of the hay privilege, their response was direct and definitive: "No. Never."⁴⁹

As we have seen, the outer two miles, though a precisely defined area of land subject to a hay claim, was used in a variety of ways by this time. River lot owners used their outer two miles as they saw fit, for hay cutting, summer pasture, or cultivated crops. Some used their land as private property, while others cooperated with neighbours to manage multiple lots as a commons. The establishment of park lots depended on the willingness of river lot owners to tolerate incursions. The effect of all of this on the right of river lot owners to the hay privilege was the crux of the disagreement between Bunn and the Harrowers. The brothers were convinced that, whatever hay privilege claim may previously have existed to the lands in question, "it had already been disposed of by the fact of our actual settlement thereon."⁵⁰ But Jemima Bunn did not agree that tolerating park lots extinguished her right.

Bunn was a widow living with her children on a St. Paul's river lot. She was anxious to preserve the hay privilege not for her own use, but on behalf of her young son. In an effort to bolster their cases, both Bunn and the Harrowers sought support from John Norquay, eminent local politician.⁵¹ It is clear which party he favoured. Jemima Bunn had recently returned to Manitoba after more than a decade in the northwest. Her story was certainly one to inspire sympathy, as her husband's death had left her with three children. The youngest was William Robert, born in 1872. But Norquay did not use personal tragedy to appeal to Ottawa. Instead, he asserted the value to the Bunn of the specific piece of land in question. An equivalent amount of land elsewhere in substitute, proposed at one point as a possible means to resolve conflicts of this sort,

48 LAC, RG 15, vol. 143, file 428. Undated transcript.

49 *Ibid.*

50 LAC, RG 15, vol. 143, file 428. Letter from James and John Harrower to John A. Macdonald. 12 February 1881.

51 AM, Office Files of Premier John Norquay, GR 553, item A-1127, Letter from A. Russell to J. Norquay, 27 April 1882.

“would be no equivalent for the loss the family would sustain if not confirmed in the possession of that portion of the lot.”⁵² To Norquay, it seemed entirely reasonable for river lot owners to plan their family’s future on the hay privilege, even if some parts were currently occupied by others.

While the Harrowers were convinced that definitive right should be extrapolated from current usage, Norquay interpreted matters differently. He saw in the Harrowers’ claim something akin to a circle cut on the open prairie. A land claim was made, but it was not of the sort that would endure indefinitely. It was such logic that underpinned Jemima Bunn’s adamant assertion that “Mr. Harrower has no right whatever to the land – his only claim being that he has built a house upon the adjoining lot and improved some of the land around it.”⁵³ A home and a farm: these are precisely the elements that the Harrowers felt fully justified their claim to ownership. But to Norquay and Bunn, these were utterly insufficient to do away with the standing right of river lot owners to the hay privilege.

At the time that Bunn was so confidently refuting the Harrowers’ claim, her only surviving son was still too young to farm. There is no evidence of any immediate need for the land in question. She could have continued to tolerate the Harrowers’ incursion without immediate personal hardship. She could have, that is, if it had not been for how new authorities were likely, at least in the settlement belt, to confuse land usage and land ownership. The political context had changed, and this affected how residents interacted with each other. Through her actions, Jemima Bunn was responding to and participating in the alteration of the context in which landholding was arranged.

The dispute between Bunn and the Harrowers occurred in a community increasingly agitated over land matters. Confronted with the possibility of dispossession, settlers who were determined to remain on their lands cooperated to petition the new government. Through their arguments, settlers equated the holding of the hay privilege with the holding of land title. Despite the fact that in practise the hay privilege more closely resembled haying on the open prairie, in theory it sufficiently resembled private property to move the government to commute such claims through the granting of title or the issuing of scrip. Bunn’s story suggests that, through this process, settlers changed how they related to their neighbours.

A community that managed the hay resource in a way that took into account general well-being employed its capacity for collective action in order to win property for individuals. Land matters that had been addressed at the larger scale of the community and the governments devolved to the level of

52 LAC, RG 15, vol. 142. file 361. Letter from J. Norquay to L. Russell, 12 April 1881.

53 LAC, RG 15, vol. 142. file 361. Letter from J. Bunn to The Minister of the Interior, 4 April 1882.

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conflict between individuals over the areas they claimed. In the specific case examined here, it remains unclear which ultimately prevailed: the Harrowers' references to environmental condition and longstanding arrangements or Bunn's claim to ownership through the hay privilege. At a more general level, these events should be evaluated alongside those that Spry and O'Riordan have seen as part of the great transformation of property relations in the northwest.

The Great Transformation?

Throughout the latter years of the nineteenth century, Manitobans continued to cut hay in wetlands.⁵⁴ Governments continued to adjust the date at which haying on Crown lands could commence.⁵⁵ However, during this period, new ideas about how to make use of these areas were emerging.

After having been elected premier in 1878, John Norquay notified the Dominion that drainage had "become a matter of necessity for the welfare of the settlement of the Province."⁵⁶ Drainage was a provincial responsibility, but matters were complicated because Ottawa retained ownership of Manitoba's Crown lands. Provincial administrations blamed Dominion ownership for Manitoba's financial difficulties and were persistent in their efforts to win concessions. Ottawa attempted to appease the province by agreeing to transfer all lands that were too wet to farm. The idea was that the province would be motivated to render them fit for agricultural settlement through drainage. Taylor's Netley marsh, perhaps part of the marsh near the Harrowers' park lot, and many other swampy reaches were to be transformed into land the province could sell for revenue.

An 1880 Order-in-Council arranged for the first transfer of land from the Dominion to the province. Subsequent legislation spurred the process of reclaiming what were seen as Manitoba's wastelands. Over the years, drainage became big business in the province. Today, the Red River region is one of the world's most intensively drained regions.⁵⁷ It has been estimated that, at the time of the first Dominion survey, approximately 11 percent of the Red River valley was wetland. Today, the area is less than 0.1 percent wetland.⁵⁸ If the Red River valley is in any way representative, the environment of southern Manitoba has been fundamentally altered.

54 "Draining Lands," *The Emigrant*, 1 July 1886.

55 AM, Sessional Papers, GR 174 G 8112, Report of the Select Committee Appointed to Prepare and Draft an Address to His Excellency the Governor-General re Hay Lands, 15 February 1877.

56 Manitoba, Department of Public Works, *Annual Report*, 1878, pp. 175 (appendix).

57 William Carlyle, "Water in the Red River Valley of the North," *The Geographical Review* 74, no. 3 (1984): 344.

58 Irene Hanuta, "A Reconstruction of Wetland Information in Pre-Settlement Southern Manitoba Using a Geographic Information System," *Canadian Water Resources Journal* 26, no. 2 (2001).

Drainage in the province has an interesting history, and its study has much to tell us about Manitoba's past. For now, it is sufficient to draw a parallel between how Red River settlers used wetlands and the sort of arrangements necessary for drainage. The essential point can be gleaned from the work of an historical geographer. Speaking in general terms of the process of draining, Michael Williams makes clear that

... these works require a remarkable degree of cooperative action in a society in order to create and, more importantly, to maintain the works, and a clear vision and commitment to the benefits to be gained. Without this constant vigilance, the carefully controlled agricultural landscape could soon become wetland again.⁵⁹

The creation and maintenance of the drained landscape that is now recognized as Manitoban, though fraught with conflict and competition, has been a deliberate community effort. Because of the watery nature of the lands, it could not have been anything else. For the same reason, it remains an ongoing affair.

Haying in swamps and draining wastelands required similar patterns of social interaction. More than in some other places, people living in southern Manitoba – Red River settlers and Manitoba homesteaders alike – have been obliged to make their living and dream their dreams in relation to their neighbours.⁶⁰ Though governments battled over Crown lands and individuals came to think in terms of private property, those who sought to use the lands of Manitoba found again and again that water did not respect property claims. Public works for purposes of drainage became the physical incarnation of the environmental attenuation of property lines. From a perspective attuned to the contemporary challenges of life in Manitoba's drained landscape, it seems that the great transformation was far from complete.

Conclusion

As Aldo Leopold predicted so many years ago, the wetlands of Manitoba have been forgotten. In examining their history, there is an opportunity to consider something else that is not always readily apparent in the works of social, political, or cultural historians: the relation between environment and community.

This essay tracks a number of stories, all related by their association with wetlands. It has illustrated how the environment affected the Red River settlement and examined a community effort to cope with political change. Conflict

59 Michael Williams, "Agricultural Impacts in Temperate Wetlands," *Wetlands: A Threatened Landscape*, ed. Michael Williams (Oxford: Basil Blackwell Ltd., 1999), 216.

60 It is important to note that the dreams of some became the nightmares of others. The departure of the Red River Métis is one example of how cultural groups fared differently. An adequate analysis of such processes is beyond the purview of this paper.

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between Jemima Bunn and the Harrower brothers over a piece of land showed how individuals and property superseded community and environment as the terms in which land matters were to be arranged. This was a significant turn with dramatic consequences. But there was also continuity in the history of the region.

The environment has affected the course of Manitoba history. As people have lived with it and changed it, so has it made them and remade them. This paper concludes with the suggestion that one of the reasons that the relation between environment and community is of continued relevance in Manitoba is because of the requirements of land drainage. Through drainage, the environment has been dramatically transformed. Yet, as Michael Williams' work suggests, drainage works require ongoing interpersonal engagement similar to that necessitated by the commons component of wetlands. People everywhere are presented with the ongoing task of deciding together what sort of place their region will be. In wet places like Manitoba, this is especially apparent. By understanding that environmental condition bears on social character and political structure, it is possible to appreciate the magnitude of such choices.